



**Sanford Heisler
Sharp McKnight, LLP**
17 State Street, 37th Floor
New York, NY 10004
Telephone: (646) 402-5650
Fax: (646) 402-5651
www.sanfordheisler.com

Andrew Macurdy, Partner and Trial Practice Group Co-Chair
(646) 402-5644
amacurdy@sanfordheisler.com

New York | Washington, DC | San Francisco | Palo Alto | Nashville | San Diego

December 9, 2024

VIA ECF

District Judge Edward S. Kiel
United States District Court for the District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets, Room 1050
Camden, NJ 08101

Re: *Elsie E. Dominguez v. United States* – Case No. 1:23-cv-22724-ESK-AMD

Dear Judge Kiel:

Counsel for the parties write with an update on the status of the case ahead of the status conference scheduled for December 10, 2024, at 3:30 pm EST.

Following Plaintiff's status update regarding the legal issues presented by filing a traditional FECA claim in this case, and Defendant's resulting request that the case be dismissed, James R. Whitman, counsel for the United States, requested a meeting with Plaintiff's counsel. During that meeting, which occurred on December 5, 2024, Mr. Whitman advised that he had consulted with the Department of Labor and learned that, despite the required attestation that the injury was sustained in the performance of duty, Ms. Dominguez could also submit a written statement explaining why she disagrees and believes that the injury was not sustained in the performance of duty. Although the attestation requires Ms. Dominguez to certify, under penalty of law, that she sustained her injury in "the performance of duty," Mr. Whitman and the Department of Labor indicated that Ms. Dominguez will not be penalized for making such an attestation if she provides a supplemental explanation of why her injury was not sustained in the performance of duty. In the event that the Department of Labor accepts the claim, Ms. Dominguez could then file a "reverse appeal" with the Employees' Compensation Appeals Board whereby she objects to the decision and any finding that the injury was sustained in the performance of duty. In the event that the Department of Labor rejects the claim on the grounds that FECA does not apply, Ms. Dominguez will take necessary steps to proceed with this civil action. In either case, the parties will advise the Court of the status and disposition of the claim.

Accordingly, with the assurances described above, Ms. Dominguez plans to submit a claim with the Department of Labor by no later than December 19, 2024.

Respectfully submitted,

/s/ Andrew Macurdy

Andrew Macurdy
Counsel for Plaintiff

/s/ James R. Whitman

James R. Whitman
Counsel for Defendant